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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,124	07/09/2003	Steve Mace	501329.01	2987

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EXAMINER

NGUYEN, TRINH T

ART UNIT PAPER NUMBER

3644

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/617,124

Applicant(s)

MACE ET AL.

Examiner

Trinh T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 36-46 is/are pending in the application.
- 4a) Of the above claim(s) 8-26 and 40-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 36-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the projectile comprises a mass of generally spherically-shaped pellets, further comprising a wad positioned within the casing" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heiny (US5225628) in view of Rennard (US 2003/0217665).

Heiny discloses an identifiable ammunition cartridge comprising: a projectile (34) having a first identification surface; a casing (32) that is coupled to the projectile that includes a second identification surface; and an identifier (see lines 45-52 of col. 5) positioned on at least one of the first and the second identification surfaces (since Heiny indicates that "Alternately the tactile identification means may be located elsewhere on the round 30" and *The American Heritage Dictionary of the English Language, Fourth Edition* copyright © 2000 by Houghton Mifflin Company (on line version at Dictionary.com) defines the term "elsewhere" as "in or to a different or another place", the Examiner is interpreted that the identifier can be positioned in or to a different or another place in round 30 which can be included either on the casing or the projectile or the wad since all the above components (i.e. the casing, the projectile, and the wad) made up round 30).

Heiny lacks to mention that (1) the identifier includes a code comprised of a plurality of optically identifiable characters, the plurality of optically identifiable

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characters comprising a combination of alphanumeric characters and (2) the code being identically and repetitively applied to the identification surfaces.

Regarding (1), Rennard discloses a similar identifiable ammunition cartridge of a firearm as that of Heiny in which Rennard discloses an identifier (42) having a code comprised of a plurality of optically identifiable characters, the plurality of optically identifiable characters comprising a combination of alphanumeric characters. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the identifier of Heiny so as to include an identifier having a plurality of optically identifiable characters comprising a combination of alphanumeric characters, in a similar manner as taught in Rennard, since to do so would merely replace one old and well known identification means with another art equivalent old and well known identification means.

Regarding (2), it would have been obvious to one of ordinary skill in the art at the time the invention was made to repetitively provide the code onto the identification surfaces, since it has been held that mere duplication of the essential working parts of a device involves only routing skill in the art.

For claims 5 and 6, Heiny as modified by Rennard (emphasis on Rennard) further discloses the code comprises a code prefix and a code body wherein the code prefix ranges from at least one character to three identical characters, and the code body includes at least four characters.

For claim 7, Heiny as modified by Rennard (emphasis on Heiny) further discloses the projectile comprises a mass of generally spherically-shaped pellets (34) and a wad

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(40,42) positioned within the casing (32) having a third identification surface and wherein the identifier is positioned on the third identification surface.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-7, and 36-39 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trinh T. Nguyen whose telephone number is (571) 272-6906. The examiner can normally be reached on M-F (9:30 A.M to 6:00 P.M).

The examiner's supervisor, Teri Luu can be reached on (571) 272-7045. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Trinh T Nguyen  
Primary Examiner  
Art Unit 3644

7/18/05